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No.7(6)/2006-IPR.I (IPAB)
Government of India,
Ministry of Commerce & Industry
Department of Industrial Policy and Promotion
(IPR.I Section)

Udyog Bhavan, New Delhi
Dated: 22nd, February, 2011

To
Shri Prasant Reddy T,
Research Associate to
Professor Shamnad Basheer
Ministry of HRD Chair on IPR Laws
West Bengal, National University of Juridical Sciences,
NUJS Bhavan, 12 LB Block,
Salt Lake City, Sector III
Kolkata-700098, India

Sub:- RTI Application under Section 6 of seeking information pertaining to complaint made by Ms. S. Usha, Vice-Chairperson of IPAB in regards lack of facilities for the IPAB circuit benches in Mumbai Delhi and Kolkata.

Sir

I am to refer to your application dated 30th December, 2010 and subsequent letter dated 11th February, 2011 received in this Department on 14th February 2011 (depositing the requisite fees for photocopies of the documents) on the subject cited above and to send herewith the requisite photocopies of documents as desired.

2. In case you are aggrieved by the reply, you may within 30 days from the receipt of the same, prefer an appeal to the Appellate Authority Shri V. Bhaskar, Joint Secretary, Department of Industrial Policy & Promotion on the above address.

Yours faithfully,

Chandni Raina

(Chandni Raina)
Director & CPIO

Tele fax 011-23063596

Copy to RTI Section with reference to their Note No.I-34012/1/2011-RTI dated 4.1.2011.

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S. USHA
Vice - Chairman

Intellectual Property Appellate Board,
Department of Industrial Policy and Promotion,
Ministry of Commerce and Industry,
Guna Complex Annexe - I, 443, Anna Salai,
Teynampet, Chennai - 600 018.
e-mail : su@tn.nic.in website : www.ipab.tn.nic.in

No. C-18013/4/03-IPAB | 675

Dated 25.01.2010

DS(SUA)

we may ask CG to continue with
the present arrangement. viduy
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Dear Shri R.P. Singh,

As you are aware, The Intellectual Property Appellate Board (IPAB) was constituted on 15th September, 2003. The Board is having its headquarters at Chennai where sittings are held. Besides it is also having its circuit bench sittings at four places, namely, Delhi, Mumbai, Kolkata, Ahmedabad. The Board is adjudicating cases relating to Trade Marks and Patent. Some of the decisions of the Board relating to patent will have international ramifications. Thus parties before the Board also consists of international business companies. The arrangement for the sitting was made by the registry of IPAB under the guidance of the Chairman & Vice-Chairman in the following places.

1. Trade Marks Registry, Boudhik Sampada Bhawan, CP-2, Sector-V, Salt Lake City, Kolkata - 700 091.
- 2, Plot No.32, Sector-14, Dwarka, New Delhi-110 075.
3. Patent Office, IPO Building, Baudhik Sampada Bhawan, Antop Hill Head Post Office, S.M. Road, Mumbai 400 037

As far as Ahmedabad is concerned the sitting is held at old High Court Building as the Trade Marks Office is in small building which cannot provide the Board with the accommodation to conduct the hearing.

Initially the accommodation for circuit bench sitting was provided at the Conference Hall. Subsequently, the circuit bench sitting of the IPAB was confined to the hearing rooms of the officials of Trade Mark and Patent, which are too small to accommodate the lawyers. The Board made a request to Controller General of Patents Designs and Trade Marks (CGPDTM) for providing conference hall for the sittings at the said places by IPAB. The IPO was kind enough to provide the conference hall for conducting the hearing as well as the ante room for the members initially.

I would like to bring to your kind notice the correspondence of His Lordship, Mr. Justice S. Jagadeesan, the first chairman of IPAB, wherein he requested the Government to make provision for accommodation of the officials as well as for the sittings of the IPAB. The subsequent Chairman of the IPAB did not pursue the matter

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Dr. R.P. Singh
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सचिव (ओ.पी.ई.) Secretary (IPP)
कार्य सं. 302
दिनांक 28/1
Date

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since the officials were satisfied with the accommodation provided in the Trade Marks Registry.

Of late, the IPAB is facing certain difficulties at IPO Dwaraka because of the allotment of small rooms, the advocates expressed their difficulties in view of space constraint they underwent. I also bring to your kind notice the speech made by Mr. Justice S. Jagadeesan wherein the problems being faced by IPAB, especially finding accommodation for Circuit Bench, was highlighted. The above speech was published in Law Journal August, 2009 issue. The relevant portion of the speech is reproduced below for your kind attention:-

The Commerce Department of the Central Government though give wide publicity and speak about the IPR, in my opinion, they have not done anything for the smooth functioning of the Appellate Board. Those who are connected with the litigation proceedings before the IPAB, may fully aware about the functioning of the IPAB since September 2003. Though 5 years had been elapsed, the department absolutely failed to take care of the functioning of the IPAB. Never turned their eyes or lend their ears for the claims of the IPAB. Though the sitting of the IPAB is at four places having the Headquarters at Chennai, in no place like Kolkotta, Mumbai, Delhi and Gujarat [Ahmedabad], the Government had made any accommodation facility for the regular sitting of the IPAB nor for the accommodation of the Chairman or Vice-Chairman or the members or the staff of the IPAB to have a regular place for the stay. It is rather ridiculous to make the Appellate Board to find out a place for the accommodation for both, sitting and staying. Many an occasion, it is very difficult to find out a suitable accommodation because of the refusal on the part of the Government organizations itself to accommodate the IPAB for the sitting and for staying. In my opinion, the IPAB should not be placed under the mercy of any other governmental body seeking accommodation for both sitting and staying of the members as well as staff. The Government is obliged to take care of the interest of the visiting bench and the Registry of IPAB should not be made to run after the bureaucrats seeking the accommodation. Unless the pressure is reduced, the functioning of the IPAB cannot be to the expectations of either the lawyers or the litigants. While I mentioning the accommodation for the sitting, it includes the accommodation for the lawyers as well as the litigants to sit in the place where the judicial proceedings are being held or conducted. It is for the Government machinery to provide such basic facility for the effective functioning of the visiting regional benches of IPAB.

It may not be out of place if I refer the refusal of accommodation by the Registry of Trade Marks at Delhi or by the ILA at Delhi or the cancellation of the accommodation after confirmation by both due to other reasons. Even once, the regional benches are hard-pressed to get accommodation, one can understand how it would function during visiting on various regions. Even in providing the accommodation the bureaucrats should not act in a farce by providing accommodation in a small room where the Advocates and litigants cannot be accommodated. By such allotment in my opinion is only to force the regional benches to cancel their sitting thereby the disposal of the cases being delayed. One may think, it may be out of place to mention all these. In my opinion, the machinery protecting the IPR are also part of the machineries in managing and Monetizing IPR and one cannot deny it. In fact the machinery is forum which is managing & monetizing the IPR.

The Government may come forward with an excuse that a Nodal Officer from the Trade Marks Department was appointed in each region to take care of the interest of the visiting regional bench and the staff. Without any secret, I can tell this August body that the Nodal Officer many a time a Misnomer since he may not be available for contact and the excuse is that he was busy otherwise on other official work. If by chance, the Registry of IPAB was able to get in touch with him, then the excuse given is that he is unable to find accommodation. All these things are on record before the Commerce Department and for all these five years, the department has not raised even a little finger.

Now, to my surprise, the CGPDTM has sent a letter dated 31.12.2009, wherein he has declined to provide any accommodation even the small hearing room for conduct of circuit bench sittings in Patent Office after April, 2010(copy enclosed).

As you are very much aware of the fact that the CGPDTM & the officials serving under him are subject to the judicial powers of the IPAB as their orders are appealable to the IPAB and as such while exercising the judicial power of the review of their orders, the IPAB is the Appellate authority. When that be the position, we are at a loss to know as to how the CGPDTM can send a letter of this nature referred above. It is really a sad state of affairs that the IPAB, that is the Chairman, Vice Chairman and the Technical Members, are at the mercy of the CGPDTM or any other officials of the concerned Patent and Trade Marks office for accommodation for the sitting of IPAB. It is rather unfortunate that the Appellate Board of international level importance in respect of the most sought-after subject "Intellectual Property" is placed in such a pathetic position.

In view of the above, you will appreciate the fact that IPAB is to be provided with adequate infrastructural facilities for the smooth conduct of sittings. Provision of permanent accommodation, especially conference room and ante rooms, by the CGPDTM is very much essential for the smooth conduct of circuit bench sittings of IPAB. Otherwise, the Government may arrange to provide permanent accommodation facilities for the circuit bench sittings of the IPAB. It is only with a paining heart this letter is being sent and, I hope you will understand the difficulties and realize the gravity

of situation under which the circuit benches are held. I, therefore, request you to look into the matter and issue necessary instructions to the Controller General, Patent Designs and Trade Mark to provide accommodation, especially conference room, for the circuit bench sittings in Delhi, Mumbai and Kolkata.

With regards,

Yours Sincerely,

Usha

(S.USHA)

Shri. R.P.Singh,
Secretary,
Room No.157,
Department of Industrial Policy and Promotion,
Ministry of Commerce and Industry,
Udyog Bhavan,
New Delhi - 110011.



**INTELLECTUAL
PROPERTY INDIA**
PATENTS/DESIGNS/
TRADE MARKS/
GEOGRAPHICAL
INDICATIONS.



सत्यमेव जयते

Government of India
Office of The Controller General
Patents, Designs & Trade Marks

Boudhik Sampada Bhavan,
S.M. Road, Antop Hill,
Mumbai-400 037, India.

(Tel): ☎ 022-2412 3311
022-24132735
022- 24132393
022-24144525

(Fax): ☎ 022-2412 3322
022-2417 2288

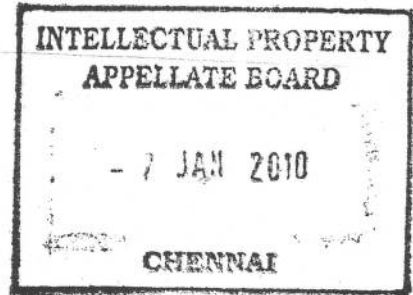
(Email): cgpdtm@nic.in
cgooffice-mh@nic.in

(website): www.ipindia.nic.in

No. CG/IPAB/2009/ 219(A)

Date : 31/12/2009

To
Shri G. Vijayaraghavan
Deputy Registrar
Intellectual Property Appellate Board
Guna Complex Annexe - I
2nd floor, 443 Anna Salai, Teynampet
Chennai - 18



Sub : Request for booking Conference Hall and Ante Room at IPO in Delhi, Kolkata and Mumbai during January to May, 2010.

Sir,

As you are well aware the accommodation facility within the IP Offices are not sufficient enough to run a modern IP Office. As is the practice in IP Office across the world I have introduced restriction for entry in the processing area of all IP Offices. We have provided hearing rooms in the ground and first floor for hearing by Patent and Trade Mark officials and they are all booked by hearing officers in advance. Hence I would request you to locate suitable spaces for hearing of IPAB in various locations. However, as you may take time to locate suitable spaces, the hearing fixed upto 5-9th April, 2010 could be done at the concerned IPOs I will instruct the H.Os accordingly.

Yours faithfully,

(P.H.Kurian)

Controller-General of Patents, Designs and Trade Marks

IPAB Chennai

Doc No. : 084

DATE : 21/09

Handwritten notes:
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GOPAL KRISHNA
Joint Secretary
Phone : 23062983
Fax : 23061034
E-mail : g.krishna@nic.in



No. B/71/2001-IPR/IPAS

वाणिज्य एवं उद्योग विभाग
(औद्योगिक नीति और संवर्धन विभाग)
उद्योग भवन, नई दिल्ली - ११००११
Ministry of Commerce & Industry
(Dept. of Industrial Policy and Promotion)
Udyog Bhawan, New Delhi-110011

Dated: 5th February, 2010

Dear Kurian,

The Intellectual Property Appellate Board (IPAB), Chennai has brought to the notice of the Department that a letter dated 31.12.2009 has been issued by the CGPDTM expressing inability to provide spaces to IPAB for holding Circuit Bench Sittings at different IPO offices from April, 2010 onwards. This was done without consulting the Department.

2. As you are aware, since the Intellectual Property Appellate Board does not have any infrastructure to conduct its circuit bench sittings in Delhi, Mumbai, Kolkata and Ahmedabad, it was decided that O/o CGPDTM would extend cooperation for conducting circuit Bench sittings of IPAB. Thus the Department had requested the O/o CGPDTM in 2003 to make arrangements such as hall for conducting hearing, rooms for the Hon'ble Chairman, Vice-Chairman and Technical Members, supporting staff, computer and accessories etc. in places other than Chennai for holding sittings of the IPAB Benches (Copy enclosed).

3. The Office of CGPDTM have built its own accomodation in various cities. You should continue to provide accommodation for IPAB to conduct circuit hearings in various locations. If there is a better alternative we should discuss.

With best wishes,

Yours sincerely

VGM 5/2/2010
GOPAL KRISHNA

Shri P.H. Kurian
Controller General
Patents, Designs and Trade Marks
Boudhik Sampada Bhavan
S.M. Road, Antop Hill
Mumbai-400 037

Copy to: Smt. S. Usha, Vice-Chairman, Intellectual Property Appellate Board, Chennai,
w.r.t. their D.O. letter No.C-18013/4/03-IPAB/675 dt.25.01.2010.



(S.K. Ahluwalia)
Deputy Secretary to the Govt. of India